

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 950

Introduced by Nebraska Retirement Systems Committee: Pankonin, 2, Chairperson; Heidemann, 1; Karpisek, 32; Louden, 49; Mello, 5; Nordquist, 7.

Read first time January 14, 2010

Committee: Nebraska Retirement Systems

A BILL

1 FOR AN ACT relating to retirement; to amend sections 23-2310.04,  
2 23-2315.01, 23-2319.02, 24-701.01, 79-902, 79-910.01,  
3 79-915, 79-920, 79-951, 79-978, 79-990, 81-2016,  
4 84-1310.01, 84-1311.03, 84-1314, 84-1321.01, 84-1323.01,  
5 and 84-1504, Reissue Revised Statutes of Nebraska,  
6 sections 23-2309.01 and 23-2310.05, Revised Statutes  
7 Cumulative Supplement, 2008, and sections 23-2306,  
8 23-2308.01, 84-1307, and 84-1309.02, Revised Statutes  
9 Supplement, 2009; to change provisions relating to the  
10 County Employees Retirement Act, the Judges Retirement  
11 Act, the School Employees Retirement Act, the Nebraska  
12 State Patrol Retirement Act, and the State Employees  
13 Retirement Act regarding participation eligibility, uses

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1           of funds, disability eligibility, and retirement system  
2           options; to redefine terms; to harmonize provisions;  
3           to provide an operative date; to repeal the original  
4           sections; and to declare an emergency.

5   Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 23-2306, Revised Statutes Supplement,  
2 2009, is amended to read:

3           23-2306 (1) The membership of the retirement system shall  
4 be composed of all persons who are or were employed by member  
5 counties and who maintain an account balance with the retirement  
6 system.

7           (2) The following employees of member counties are  
8 authorized to participate in the retirement system: (a) All  
9 permanent full-time employees shall begin participation in the  
10 retirement system upon employment and full-time elected officials  
11 shall begin participation in the retirement system upon taking  
12 office, (b) all permanent part-time employees who have attained  
13 the age of twenty years may exercise the option to begin  
14 participation in the retirement system, and (c) all part-time  
15 elected officials may exercise the option to begin participation  
16 in the retirement system. An employee who exercises the option to  
17 begin participation in the retirement system shall remain in the  
18 system until termination or retirement, regardless of any change of  
19 status as a permanent or temporary employee.

20           (3) On and after the operative date of this act, no  
21 employee of a member county shall be authorized to participate  
22 in the retirement system provided for in the County Employees  
23 Retirement Act unless the employee (a) is a United States citizen  
24 or (b) is a qualified alien under the federal Immigration and  
25 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on

1 January 1, 2009, and is lawfully present in the United States.

2           ~~(3)~~ (4) Within the first one hundred eighty days of  
3 employment, a full-time employee may apply to the board for  
4 vesting credit for years of participation in another Nebraska  
5 governmental plan, as defined by section 414(d) of the Internal  
6 Revenue Code. During the years of participation in the other  
7 Nebraska governmental plan, the employee must have been a full-time  
8 employee, as defined in the Nebraska governmental plan in which  
9 the credit was earned. The board may adopt and promulgate rules  
10 and regulations governing the assessment and granting of vesting  
11 credit.

12           ~~(4)~~ (5) Any employee who qualifies for membership in the  
13 retirement system pursuant to this section may not be disqualified  
14 from membership in the retirement system solely because such  
15 employee also maintains separate employment which qualifies the  
16 employee for membership in another public retirement system,  
17 nor may membership in this retirement system disqualify such an  
18 employee from membership in another public retirement system solely  
19 by reason of separate employment which qualifies such employee for  
20 membership in this retirement system.

21           ~~(5)~~ (6) A full-time or part-time employee of a city,  
22 village, or township who becomes a county employee pursuant to a  
23 merger of services shall receive vesting credit for his or her  
24 years of participation in a Nebraska governmental plan, as defined  
25 by section 414(d) of the Internal Revenue Code, of the city,

1 village, or township.

2 ~~(6)~~ (7) A full-time or part-time employee of a city,  
3 village, fire protection district, or township who becomes a  
4 municipal county employee shall receive credit for his or her years  
5 of employment with the city, village, fire protection district, or  
6 township for purposes of the vesting provisions of this section.

7 ~~(7)~~ (8) Counties shall ensure that employees authorized  
8 to participate in the retirement system pursuant to this section  
9 shall enroll and make required contributions to the retirement  
10 system immediately upon becoming an employee. Information necessary  
11 to determine membership in the retirement system shall be provided  
12 by the employer.

13 Sec. 2. Section 23-2308.01, Revised Statutes Supplement,  
14 2009, is amended to read:

15 23-2308.01 (1) It is the intent of the Legislature that,  
16 in order to improve the competitiveness of the retirement plan  
17 for county employees, a cash balance benefit shall be added to  
18 the County Employees Retirement Act on and after January 1, 2003.  
19 Each member who is employed and participating in the retirement  
20 system prior to January 1, 2003, may either elect to continue  
21 participation in the defined contribution benefit as provided in  
22 the act prior to January 1, 2003, or elect to participate in the  
23 cash balance benefit as set forth in this section. The member  
24 shall make the election prior to January 1, 2003, or on or after  
25 November 1, 2007, but before January 1, 2008. If no election

1 is made prior to January 1, 2003, or on or after November 1,  
2 2007, but before January 1, 2008, the member shall be treated as  
3 though he or she elected to continue participating in the defined  
4 contribution benefit as provided in the act prior to January 1,  
5 2003. Members who elect to participate in the cash balance benefit  
6 on or after November 1, 2007, but before January 1, 2008, shall  
7 commence participation in the cash balance benefit on January 1,  
8 2008. Any member who made the election prior to January 1, 2003,  
9 does not have to reelect the cash balance benefit on or after  
10 November 1, 2007, but before January 1, 2008. A member employed  
11 and participating in the retirement system prior to January 1,  
12 2003, who terminates employment on or after January 1, 2003, and  
13 returns to employment prior to having a five-year break in service  
14 shall participate in the cash balance benefit as set forth in this  
15 section.

16 (2) For a member employed and participating in the  
17 retirement system beginning on and after January 1, 2003, or a  
18 member employed and participating in the retirement system on  
19 January 1, 2003, who, prior to January 1, 2003, or on or after  
20 November 1, 2007, but before January 1, 2008, elects to convert his  
21 or her employee and employer accounts to the cash balance benefit:

22 (a) The employee cash balance account shall, at any time,  
23 be equal to the following:

24 (i) The initial employee account balance, if any,  
25 transferred from the defined contribution plan account described in

1 section 23-2309; plus

2 (ii) Employee contribution credits deposited in  
3 accordance with section 23-2307; plus

4 (iii) Interest credits credited in accordance with  
5 subdivision (19) of section 23-2301; plus

6 (iv) Dividend amounts credited in accordance with  
7 subdivision (4)(c) of section 23-2317; and

8 (b) The employer cash balance account shall, at any time,  
9 be equal to the following:

10 (i) The initial employer account balance, if any,  
11 transferred from the defined contribution plan account described in  
12 section 23-2310; plus

13 (ii) Employer contribution credits deposited in  
14 accordance with section 23-2308; plus

15 (iii) Interest credits credited in accordance with  
16 subdivision (19) of section 23-2301; plus

17 (iv) Dividend amounts credited in accordance with  
18 subdivision (4)(c) of section 23-2317.

19 (3) In order to carry out the provisions of this section,  
20 the board may enter into administrative services agreements for  
21 accounting or record-keeping services. No agreement shall be  
22 entered into unless the board determines that it will result  
23 in administrative economy and will be in the best interests of the  
24 counties and their participating employees. The board may develop  
25 a schedule for the allocation of the administrative services

1 agreements costs for accounting or record-keeping services and may  
2 assess the costs so that each member pays a reasonable fee as  
3 determined by the board. ~~The money forfeited pursuant to section~~  
4 ~~23-2319.01 shall not be used to pay the administrative costs~~  
5 ~~incurred pursuant to this subsection.~~

6 Sec. 3. Section 23-2309.01, Revised Statutes Cumulative  
7 Supplement, 2008, is amended to read:

8 23-2309.01 (1) Each member employed and participating in  
9 the retirement system prior to January 1, 2003, who has elected  
10 not to participate in the cash balance benefit, shall be allowed  
11 to allocate all contributions to his or her employee account to  
12 various investment options. The investment options shall include,  
13 but not be limited to, the following:

14 (a) An investor select account which shall be invested  
15 under the direction of the state investment officer with an asset  
16 allocation and investment strategy substantially similar to the  
17 investment allocations made by the state investment officer for  
18 the defined benefit plans under the retirement systems described  
19 in subdivision (1)(a) of section 84-1503. Investments shall most  
20 likely include domestic and international equities, fixed income  
21 investments, and real estate, as well as potentially additional  
22 asset classes;

23 (b) A stable return account which shall be invested by or  
24 under the direction of the state investment officer in one or more  
25 guaranteed investment contracts;

1           (c) An equities account which shall be invested by or  
2 under the direction of the state investment officer in equities;

3           (d) A balanced account which shall be invested by or  
4 under the direction of the state investment officer in equities and  
5 fixed income instruments;

6           (e) An index fund account which shall be invested by or  
7 under the direction of the state investment officer in a portfolio  
8 of common stocks designed to closely duplicate the total return of  
9 the Standard and Poor's 500 Index;

10          (f) A fixed income account which shall be invested by or  
11 under the direction of the state investment officer in fixed income  
12 instruments;

13          (g) A money market account which shall be invested by or  
14 under the direction of the state investment officer in short-term  
15 fixed income securities; and

16          (h) Beginning July 1, 2006, an age-based account which  
17 shall be invested under the direction of the state investment  
18 officer with an asset allocation and investment strategy that  
19 changes based upon the age of the member. The board shall  
20 develop an account mechanism that changes the investments as  
21 the employee nears retirement age. The asset allocation and asset  
22 classes utilized in the investments shall move from aggressive, to  
23 moderate, and then to conservative as retirement age approaches.

24           If a member fails to select an option or combination of  
25 options, all of his or her funds shall be placed in the option

1 described in subdivision (b) of this subsection. Each member shall  
2 be given a detailed current description of each investment option  
3 prior to making or revising his or her allocation.

4 (2) Members of the retirement system may allocate their  
5 contributions to the investment options in percentage increments as  
6 set by the board in any proportion, including full allocation to  
7 any one option. A member under subdivision (1) of section 23-2321  
8 or his or her beneficiary may transfer any portion of his or her  
9 funds among the options, except for restrictions on transfers to or  
10 from the stable return account pursuant to rule or regulation. The  
11 board shall adopt and promulgate rules and regulations for changes  
12 of a member's allocation of contributions to his or her accounts  
13 after his or her most recent allocation and for transfers from one  
14 investment account to another.

15 (3) The board shall develop a schedule for the allocation  
16 of administrative costs of maintaining the various investment  
17 options and shall assess the costs so that each member pays a  
18 reasonable fee as determined by the board. ~~The money forfeited~~  
19 ~~pursuant to section 23-2319.01 shall not be used to pay the~~  
20 ~~administrative costs incurred pursuant to this section.~~

21 (4) In order to carry out this section, the board  
22 may enter into administrative services agreements for accounting  
23 or record-keeping services. No agreement shall be entered into  
24 unless the board determines that it will result in administrative  
25 economy and will be in the best interests of the county and its

1 participating employees.

2 (5) The state, the board, the state investment officer,  
3 the members of the Nebraska Investment Council, or the county  
4 shall not be liable for any investment results resulting from  
5 the member's exercise of control over the assets in the employee  
6 account.

7 Sec. 4. Section 23-2310.04, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 23-2310.04 (1) The County Employees Defined Contribution  
10 Retirement Expense Fund is created. The fund shall be credited  
11 with money forfeited pursuant to section 23-2319.01 and with money  
12 from the retirement system assets and income sufficient to pay the  
13 pro rata share of administrative expenses incurred as directed by  
14 the board for the proper administration of the County Employees  
15 Retirement Act and necessary in connection with the administration  
16 and operation of the retirement system. ~~except as provided in~~  
17 ~~sections 23-2308.01, 23-2309.01, 23-2310, and 23-2310.05.~~ Any money  
18 in the fund available for investment shall be invested by the state  
19 investment officer pursuant to the Nebraska Capital Expansion Act  
20 and the Nebraska State Funds Investment Act.

21 (2) The County Employees Cash Balance Retirement Expense  
22 Fund is created. The fund shall be credited with money forfeited  
23 pursuant to section 23-2319.01 and with money from the retirement  
24 system assets and income sufficient to pay the pro rata share of  
25 administrative expenses incurred as directed by the board for the

1 proper administration of the County Employees Retirement Act and  
2 necessary in connection with the administration and operation  
3 of the retirement system. ~~\_\_\_, except as provided in sections~~  
4 ~~23-2308.01, 23-2309.01, 23-2310, and 23-2310.05.~~ Any money in  
5 the fund available for investment shall be invested by the state  
6 investment officer pursuant to the Nebraska Capital Expansion Act  
7 and the Nebraska State Funds Investment Act.

8           Sec. 5. Section 23-2310.05, Revised Statutes Cumulative  
9 Supplement, 2008, is amended to read:

10           23-2310.05 (1) Each member employed and participating in  
11 the retirement system prior to January 1, 2003, who has elected  
12 not to participate in the cash balance benefit, shall be allowed  
13 to allocate all contributions to his or her employer account to  
14 various investment options. Such investment options shall be the  
15 same as the investment options of the employee account as provided  
16 in subsection (1) of section 23-2309.01. If a member fails to  
17 select an option or combination of options, all of his or her funds  
18 in the employer account shall be placed in the balanced account  
19 option described in subdivision (1)(d) of section 23-2309.01.  
20 Each member shall be given a detailed current description of  
21 each investment option prior to making or revising his or her  
22 allocation.

23           (2) Each member of the retirement system may allocate  
24 contributions to his or her employer account to the investment  
25 options in percentage increments as set by the board in any

1 proportion, including full allocation to any one option. A member  
2 under subdivision (1) of section 23-2321 or his or her beneficiary  
3 may transfer any portion of his or her funds among the options. The  
4 board shall adopt and promulgate rules and regulations for changes  
5 of a member's allocation of contributions to his or her accounts  
6 after his or her most recent allocation and for transfers from one  
7 investment account to another.

8 (3) The board shall develop a schedule for the allocation  
9 of administrative costs of maintaining the various investment  
10 options and shall assess the costs so that each member pays a  
11 reasonable fee as determined by the board. ~~The money forfeited~~  
12 ~~pursuant to section 23-2319.01 shall not be used to pay the~~  
13 ~~administrative costs incurred pursuant to this section.~~

14 (4) In order to carry out the provisions of this section,  
15 the board may enter into administrative services agreements for  
16 accounting or record-keeping services. No agreement shall be  
17 entered into unless the board determines that it will result  
18 in administrative economy and will be in the best interests of the  
19 state and participating employees.

20 (5) The state, the board, the state investment officer,  
21 the members of the Nebraska Investment Council, or the county  
22 shall not be liable for any investment results resulting from  
23 the member's exercise of control over the assets in the employer  
24 account.

25 Sec. 6. Section 23-2315.01, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           23-2315.01 (1) Any member, disregarding the length of  
3 service, may be retired as a result of disability either upon  
4 his or her own application or upon the application of his or her  
5 employer or any person acting in his or her behalf. Before any  
6 member may be so retired, a medical examination shall be made  
7 at the expense of the retirement system, which examination shall  
8 be conducted by a disinterested physician legally authorized to  
9 practice medicine under the laws of the state in which he or she  
10 practices, such physician to be selected by the retirement board,  
11 and the physician shall certify to the board that the member should  
12 be retired because he or she suffers from an inability to engage  
13 in a substantially gainful activity by reason of any medically  
14 determinable physical or mental impairment which began while the  
15 member was a participant in the plan and which can be expected to  
16 result in death or to be of long-continued and indefinite duration.  
17 The application for disability retirement shall be made within one  
18 year of termination of employment.

19           (2) The retirement board may require any disability  
20 beneficiary who has not attained the age of ~~sixty-five~~ fifty-five  
21 to undergo a medical examination at the expense of the board once  
22 each year. Should any disability beneficiary refuse to undergo such  
23 an examination, his or her disability retirement benefit may be  
24 discontinued by the board.

25           Sec. 7. Section 23-2319.02, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           23-2319.02 ~~(1)~~ The County Employer Retirement Expense  
3 Fund shall be used to meet expenses of the county employees  
4 retirement system whether such expenses are incurred in  
5 administering the member's employer account or in administering the  
6 member's employer cash balance account when the funds available in  
7 the County Employees Defined Contribution Retirement Expense Fund  
8 or County Employees Cash Balance Retirement Expense Fund make such  
9 use reasonably necessary.

10           ~~(2)~~ The State Employer Retirement Expense Fund shall be  
11 used to meet expenses of the State Employees Retirement System  
12 of the State of Nebraska whether such expenses are incurred in  
13 administering the member's employer account or in administering the  
14 member's employer cash balance account when the funds available in  
15 the State Employees Defined Contribution Retirement Expense Fund or  
16 State Employees Cash Balance Retirement Expense Fund make such use  
17 reasonably necessary.

18           Sec. 8. Section 24-701.01, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           24-701.01 Sections 24-701 to 24-714 and section 9 of this  
21 act shall be known and may be cited as the Judges Retirement Act.

22           Sec. 9. On and after the operative date of this act, no  
23 judge shall be authorized to participate in the retirement system  
24 provided for in the Judges Retirement Act unless the judge (a) is a  
25 United States citizen or (b) is a qualified alien under the federal

1 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act  
2 existed on January 1, 2009, and is lawfully present in the United  
3 States.

4           Sec. 10. Section 79-902, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           79-902 For purposes of the School Employees Retirement  
7 Act, unless the context otherwise requires:

8           (1) Accumulated contributions means the sum of all  
9 amounts deducted from the compensation of a member and credited  
10 to his or her individual account in the School Retirement  
11 Fund together with regular interest thereon, compounded monthly,  
12 quarterly, semiannually, or annually;

13           (2) Beneficiary means any person in receipt of a school  
14 retirement allowance or other benefit provided by the act;

15           (3) Member means any person who has an account in the  
16 School Retirement Fund;

17           (4) County school official means (a) until July 1, 2000,  
18 the county superintendent or district superintendent and any person  
19 serving in his or her office who is required by law to have  
20 a teacher's certificate and (b) on or after July 1, 2000, the  
21 county superintendent, county school administrator, or district  
22 superintendent and any person serving in his or her office who is  
23 required by law to have a teacher's certificate;

24           (5) Creditable service means prior service for which  
25 credit is granted under sections 79-926 to 79-929, service credit

1 purchased under sections 79-933.03 to 79-933.06 and 79-933.08,  
2 and all service rendered while a contributing member of the  
3 retirement system. Creditable service includes working days, sick  
4 days, vacation days, holidays, and any other leave days for which  
5 the employee is paid regular wages as part of the employee's  
6 agreement with the employer. Creditable service does not include  
7 lump-sum payments to the employee upon termination or retirement  
8 in lieu of accrued benefits for such days, eligibility and vesting  
9 credit, nor service years for which member contributions are  
10 withdrawn and not repaid. Creditable service also does not include  
11 service rendered by a member for which the retirement board  
12 determines that the member was paid less in compensation than the  
13 minimum wage as provided in the Wage and Hour Act or service which  
14 the board determines was rendered with the intent to defraud the  
15 retirement system;

16 (6) Disability retirement allowance means the annuity  
17 paid to a person upon retirement for disability under section  
18 79-952;

19 (7) Employer means the State of Nebraska or any  
20 subdivision thereof or agency of the state or subdivision  
21 authorized by law to hire school employees or to pay their  
22 compensation;

23 (8) Fiscal year means any year beginning July 1 and  
24 ending June 30 next following;

25 (9) Regular interest means interest fixed at a rate equal

1 to the daily treasury yield curve for one-year treasury securities,  
2 as published by the Secretary of the Treasury of the United States,  
3 that applies on July 1 of each year, which may be credited monthly,  
4 quarterly, semiannually, or annually as the board may direct;

5 (10) School employee means a contributing member who  
6 earns service credit pursuant to section 79-927. For purposes of  
7 this section, contributing member means the following persons who  
8 receive compensation from a public school: (a) Regular employees;  
9 (b) regular employees having retired pursuant to the School  
10 Employees Retirement Act who subsequently provide compensated  
11 service on a regular basis in any capacity; and (c) regular  
12 employees hired by a public school on an ongoing basis to assume  
13 the duties of other regular employees who are temporarily absent.  
14 Substitute employees shall not be considered school employees;

15 (11) Prior service means service rendered as a school  
16 employee in the public schools of the State of Nebraska prior to  
17 July 1, 1945;

18 (12) Public school means any and all schools offering  
19 instruction in elementary or high school grades, as defined in  
20 section 79-101, which schools are supported by public funds and are  
21 wholly under the control and management of the State of Nebraska  
22 or any subdivision thereof, including (a) schools or other entities  
23 established, maintained, and controlled by the school boards of  
24 local school districts, except Class V school districts, (b) any  
25 educational service unit, and (c) any other educational institution

1 wholly supported by public funds, except schools under the control  
2 and management of the Board of Trustees of the Nebraska State  
3 Colleges, the Board of Regents of the University of Nebraska, or  
4 the community college boards of governors for any community college  
5 areas;

6 (13) Retirement means qualifying for and accepting a  
7 school or disability retirement allowance granted under the School  
8 Employees Retirement Act;

9 (14) Retirement board or board means the Public Employees  
10 Retirement Board;

11 (15) Retirement system means the School Retirement System  
12 of the State of Nebraska;

13 (16) Required deposit means the deduction from a member's  
14 compensation as provided for in section 79-958 which shall be  
15 deposited in the School Retirement Fund;

16 (17) School year means one fiscal year which includes  
17 not less than one thousand instructional hours or, in the case of  
18 service in the State of Nebraska prior to July 1, 1945, not less  
19 than seventy-five percent of the then legal school year;

20 (18) Service means employment as a school employee and  
21 shall not be deemed interrupted by (a) termination at the end of  
22 the school year of the contract of employment of an employee in a  
23 public school if the employee enters into a contract of employment  
24 in any public school, except a school in a Class V school district,  
25 for the following school year, (b) temporary or seasonal suspension

1 of service that does not terminate the employee's employment,  
2 (c) leave of absence authorized by the employer for a period  
3 not exceeding twelve months, (d) leave of absence because of  
4 disability, or (e) military service when properly authorized by  
5 the retirement board. Service does not include any period of  
6 disability for which disability retirement benefits are received  
7 under sections 79-951 to 79-953;

8 (19) School retirement allowance means the total of the  
9 savings annuity and the service annuity or formula annuity paid a  
10 person who has retired under sections 79-931 to 79-935. The monthly  
11 payments shall be payable at the end of each calendar month during  
12 the life of a retired member. The first payment shall include all  
13 amounts accrued since the effective date of the award of annuity.  
14 The last payment shall be at the end of the calendar month in which  
15 such member dies or in accordance with the payment option chosen by  
16 the member;

17 (20) Service annuity means payments for life, made in  
18 equal monthly installments, derived from appropriations made by the  
19 State of Nebraska to the retirement system;

20 (21) State deposit means the deposit by the state in the  
21 retirement system on behalf of any member;

22 (22) State school official means the Commissioner of  
23 Education and his or her professional staff who are required by law  
24 or by the State Department of Education to hold a certificate as  
25 such term is defined in section 79-807;

1           (23) Savings annuity means payments for life, made in  
2 equal monthly payments, derived from the accumulated contributions  
3 of a member;

4           (24) Emeritus member means a person (a) who has entered  
5 retirement under the provisions of the act, including those persons  
6 who have retired since July 1, 1945, under any other regularly  
7 established retirement or pension system as contemplated by section  
8 79-916, (b) who has thereafter been reemployed in any capacity  
9 by a public school, a Class V school district, or a school  
10 under the control and management of the Board of Trustees of the  
11 Nebraska State Colleges, the Board of Regents of the University of  
12 Nebraska, or a community college board of governors or has become  
13 a state school official or county school official subsequent to  
14 such retirement, and (c) who has applied to the board for emeritus  
15 membership in the retirement system. The school district or agency  
16 shall certify to the retirement board on forms prescribed by the  
17 retirement board that the annuitant was reemployed, rendered a  
18 service, and was paid by the district or agency for such services;

19           (25) Actuarial equivalent means the equality in value of  
20 the aggregate amounts expected to be received under different forms  
21 of payment. The determinations shall be based on the 1994 Group  
22 Annuity Mortality Table reflecting sex-distinct factors blended  
23 using twenty-five percent of the male table and seventy-five  
24 percent of the female table. An interest rate of eight percent  
25 per annum shall be reflected in making these determinations except

1 when a lump-sum settlement is made to an estate. If the lump-sum  
2 settlement is made to an estate, the interest rate will be  
3 determined by the Moody's Triple A Bond Index as of the prior June  
4 30, rounded to the next lower quarter percent;

5 (26) Retirement date means (a) if the member has  
6 terminated employment, the first day of the month following the  
7 date upon which a member's request for retirement is received on  
8 a retirement application provided by the retirement system or (b)  
9 if the member has filed an application but has not yet terminated  
10 employment, the first day of the month following the date on which  
11 the member terminates employment. An application may be filed no  
12 more than ninety days prior to the effective date of the member's  
13 initial benefit;

14 (27) Disability retirement date means the first day of  
15 the month following the date upon which a member's request for  
16 disability retirement is received on a retirement application  
17 provided by the retirement system if the member has terminated  
18 employment in the school system and has complied with sections  
19 79-951 to 79-954 as such sections refer to disability retirement;

20 (28) Retirement application means the form approved by  
21 the retirement system for acceptance of a member's request for  
22 either regular or disability retirement;

23 (29) Eligibility and vesting credit means credit for  
24 years, or a fraction of a year, of participation in a Nebraska  
25 government plan for purposes of determining eligibility for

1 benefits under the School Employees Retirement Act. Such credit  
2 shall not be included as years of creditable service in the benefit  
3 calculation;

4 (30) (a) Final average compensation means the sum of the  
5 member's total compensation during the three twelve-month periods  
6 of service as a school employee in which such compensation was the  
7 greatest divided by thirty-six.

8 (b) If a member has such compensation for less than  
9 thirty-six months, his or her final average compensation shall be  
10 determined by dividing his or her total compensation in all months  
11 by the total number of months of his or her creditable service  
12 therefor.

13 (c) Payments under the Retirement Incentive Plan pursuant  
14 to section 79-855 and Staff Development Assistance pursuant to  
15 section 79-856 shall not be included in the determination of final  
16 average compensation;

17 (31) Plan year means the twelve-month period beginning on  
18 July 1 and ending on June 30 of the following year;

19 (32) Current benefit means (a) until July 1, 2000, the  
20 initial benefit increased by all adjustments made pursuant to  
21 section 79-947.02 and (b) on or after July 1, 2000, the initial  
22 benefit increased by all adjustments made pursuant to the School  
23 Employees Retirement Act;

24 (33) Initial benefit means the retirement benefit  
25 calculated at the time of retirement;

1           (34) Surviving spouse means (a) the spouse married to  
2 the member on the date of the member's death or (b) the spouse  
3 or former spouse of the member if survivorship rights are provided  
4 under a qualified domestic relations order filed with the board  
5 pursuant to the Spousal Pension Rights Act. The spouse or former  
6 spouse shall supersede the spouse married to the member on the  
7 date of the member's death as provided under a qualified domestic  
8 relations order. If the benefits payable to the spouse or former  
9 spouse under a qualified domestic relations order are less than  
10 the value of benefits entitled to the surviving spouse, the spouse  
11 married to the member on the date of the member's death shall be  
12 the surviving spouse for the balance of the benefits;

13           (35)(a) Compensation means gross wages or salaries  
14 payable to the member for personal services performed during the  
15 plan year and includes (i) overtime pay, (ii) member retirement  
16 contributions, (iii) retroactive salary payments paid pursuant to  
17 court order, arbitration, or litigation and grievance settlements,  
18 and (iv) amounts contributed by the member to plans under sections  
19 125, 403(b), and 457 of the Internal Revenue Code as defined in  
20 section 49-801.01 or any other section of the code which defers or  
21 excludes such amounts from income.

22           (b) Compensation does not include (i) fraudulently  
23 obtained amounts as determined by the retirement board, (ii)  
24 amounts for unused sick leave or unused vacation leave converted  
25 to cash payments, (iii) insurance premiums converted into cash

1 payments, (iv) reimbursement for expenses incurred, (v) fringe  
2 benefits, (vi) bonuses for services not actually rendered,  
3 including, but not limited to, early retirement inducements, cash  
4 awards, and severance pay, or (vii) beginning on September 4, 2005,  
5 employer contributions made for the purposes of separation payments  
6 made at retirement and early retirement inducements as provided for  
7 in section 79-514.

8 (c) Compensation in excess of the limitations set forth  
9 in section 401(a)(17) of the Internal Revenue Code as defined  
10 in section 49-801.01 shall be disregarded. For an employee who  
11 was a member of the retirement system before the first plan year  
12 beginning after December 31, 1995, the limitation on compensation  
13 shall not be less than the amount which was allowed to be taken  
14 into account under the retirement system as in effect on July 1,  
15 1993.

16 (d)(i) In the determination of compensation for members  
17 on or after July 1, 2002, through June 30, 2005, that part of  
18 a member's compensation for the fiscal year which exceeds the  
19 member's compensation with the same employer for the preceding  
20 fiscal year by more than ten percent shall be excluded unless  
21 (A) the member experienced a substantial change in employment  
22 position or (B) the excess compensation occurred as the result  
23 of a collective-bargaining agreement between the employer and  
24 a recognized collective-bargaining unit or category of school  
25 employee.

1 (ii) For purposes of this subdivision:

2 (A) Category of school employee means either all  
3 employees of the employer who are administrators or certificated  
4 teachers, or all employees of the employer who are not  
5 administrators or certificated teachers, or both; and

6 (B) Recognized collective-bargaining unit means a group  
7 of employees similarly situated with a similar community of  
8 interest appropriate for bargaining recognized as such by a school  
9 board.

10 (e)(i) In the determination of compensation for members  
11 on or after July 1, 2005, that part of a member's compensation  
12 for the plan year which exceeds the member's compensation with  
13 the same employer for the preceding plan year by more than seven  
14 percent of the compensation base during the sixty months preceding  
15 the member's retirement shall be excluded unless (A) the member  
16 experienced a substantial change in employment position, (B) as  
17 verified by the school board, the excess compensation above seven  
18 percent occurred as the result of a collective-bargaining agreement  
19 between the employer and a recognized collective-bargaining unit  
20 or category of school employee, and the percentage increase  
21 in compensation above seven percent shall not be excluded for  
22 employees outside of a collective-bargaining unit or within the  
23 same category of school employee, or (C) the excess compensation  
24 occurred as the result of a districtwide permanent benefit change  
25 made by the employer for a category of school employee in

1 accordance with subdivision (35) (a) (iv) of this section.

2 (ii) For purposes of this subdivision:

3 (A) Category of school employee means either all  
4 employees of the employer who are administrators or certificated  
5 teachers, or all employees of the employer who are not  
6 administrators or certificated teachers, or both;

7 (B) Compensation base means (I) for current members  
8 employed with the same employer, the member's compensation for the  
9 plan year ending June 30, 2005, or (II) for members newly hired or  
10 hired by a separate employer on or after July 1, 2005, the member's  
11 compensation for the first full plan year following the member's  
12 date of hiring. Thereafter, the member's compensation base shall  
13 be increased each plan year by the lesser of seven percent of the  
14 member's preceding plan year's compensation base or the member's  
15 actual annual compensation increase during the preceding plan year;  
16 and

17 (C) Recognized collective-bargaining unit means a group  
18 of employees similarly situated with a similar community of  
19 interest appropriate for bargaining recognized as such by a school  
20 board;

21 (36) Termination of employment occurs on the date on  
22 which the member experiences a bona fide separation from service  
23 of employment with the member's current employer, the date of  
24 which separation is determined by the employer. The employer  
25 shall notify the board of the date on which such a termination

1 has occurred. Termination of employment does not include ceasing  
2 employment if the member subsequently provides service on a ~~regular~~  
3 ~~basis~~ in any capacity for any ~~school district other than a Class~~  
4 ~~V school district~~ employer participating in the retirement system  
5 provided for in the School Employees Retirement Act within one  
6 hundred eighty calendar days after ceasing employment or if the  
7 board determines that a purported termination was not a bona fide  
8 separation from service with the employer;

9 (37) Disability means an inability to engage in a  
10 substantially gainful activity by reason of any medically  
11 determinable physical or mental impairment which can be expected to  
12 result in death or be of a long and indefinite duration;

13 (38) Substitute employee means a person hired by a public  
14 school as a temporary employee ~~on an intermittent basis~~ to assume  
15 the duties of regular employees due to the temporary absence of the  
16 regular employees. Substitute employee does not mean a person hired  
17 as a regular employee on an ongoing basis to assume the duties of  
18 other regular employees who are temporarily absent;

19 (39) Participation means qualifying for and making  
20 required deposits to the retirement system during the course of a  
21 plan year;

22 (40) Regular employee means an employee hired by a public  
23 school or under contract in a regular full-time or part-time  
24 position who works a full-time or part-time schedule on an ongoing  
25 basis for fifteen or more hours per week. An employee hired as

1 described in this subdivision to provide service for less than  
2 fifteen hours per week but who provides service for fifteen hours  
3 or more per week in any three calendar months of a plan year shall  
4 immediately commence contributions and shall be deemed a regular  
5 employee; and

6 (41) Temporary employee means an employee hired by a  
7 public school who is not a regular employee and who is hired  
8 to provide service for a limited period of time to accomplish a  
9 specific purpose or task. When such specific purpose or task is  
10 complete, the employment of such temporary employee shall terminate  
11 and in no case shall the temporary employment period exceed one  
12 year in duration.

13 Sec. 11. Section 79-910.01, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 79-910.01 (1) Except for substitute employees, each  
16 person employed by a public school who is a school employee  
17 and who is qualified to participate in the retirement system shall  
18 participate in the retirement system.

19 (2) Public schools shall ensure that all school employees  
20 who qualify for participation pursuant to this section shall begin  
21 annual participation on July 1 of each plan year or upon such  
22 person's date of hire, if later than July 1, and that all required  
23 deposits are made on behalf of such employees.

24 Sec. 12. Section 79-915, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           79-915 (1) Persons residing outside of the United States  
2 and engaged temporarily as school employees in the State of  
3 Nebraska shall not become members of the retirement system.

4           (2) On and after the operative date of this act,  
5 no school employee shall be authorized to participate in the  
6 retirement system provided for in the School Employees Retirement  
7 Act unless the employee (a) is a United States citizen or (b) is a  
8 qualified alien under the federal Immigration and Nationality Act,  
9 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and  
10 is lawfully present in the United States.

11           Sec. 13. Section 79-920, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           79-920 (1) An individual who was, prior to July 19, 1980,  
14 a state school official and did not become a member of the State  
15 Employees Retirement System of the State of Nebraska pursuant to  
16 the State Employees Retirement Act may, within sixty days after  
17 September 1, 1986, elect to become a member of such system. An  
18 individual so electing shall pay the contributions required by such  
19 system when the service and minimum age requirements have been met.

20           (2) An individual who is ~~currently~~ or was previously  
21 a school employee or who was employed in an out-of-state or a  
22 Class V school district, ~~and~~ who becomes employed by the State  
23 Department of Education after July 1, 1989, ~~regardless of position,~~  
24 and who is a state school official may file with the retirement  
25 board within thirty days after employment an election to become

1 or remain a member of the School Retirement System of the State  
2 of Nebraska. Employees electing not to participate in the School  
3 Retirement System shall participate in ~~7 or~~ within thirty days  
4 after employment in the department, the individual may file an  
5 election to become a member of the State Employees Retirement  
6 System of the State of Nebraska. An individual shall be required  
7 to participate in the State Employees Retirement System if (a)  
8 the individual terminated employment from a school participating  
9 in the School Retirement System and retired pursuant to the School  
10 Employees Retirement Act and (b) the employment by the State  
11 Department of Education began or will begin within one hundred  
12 eighty days after terminating employment from the school. The  
13 individual shall pay the contributions required by the system which  
14 he or she elects when all eligibility requirements are met.

15           ~~(3)~~ If the employee elects to join the State Employees  
16 Retirement System of the State of Nebraska, such employee shall  
17 be eligible for immediate participation in the State Employees  
18 Retirement System of the State of Nebraska with no minimum  
19 period of service if the minimum age and length of service  
20 requirements under the State Employees Retirement System of the  
21 State of Nebraska or the School Retirement System of the State of  
22 Nebraska have been met and the requirements met are equal to the  
23 requirements of the State Employees Retirement System of the State  
24 of Nebraska.

25           ~~(4)~~ A state school official employed by the State

1 ~~Department of Education after July 1, 1989, may elect to become a~~  
 2 ~~member of the School Retirement System of the State of Nebraska or~~  
 3 ~~the State Employees Retirement System of the State of Nebraska.~~

4 ~~(5)~~ (3) An employee electing not to be covered by the  
 5 School Retirement System of the State of Nebraska under this  
 6 section shall not be subject to section 79-957 but shall be allowed  
 7 to retain his or her accumulated contribution in the system and  
 8 continue to become vested in the state's accumulated contribution  
 9 as well as the State Employees Retirement System of the State of  
 10 Nebraska according to the following:

11 (a) The years of participation in the School Retirement  
 12 System of the State of Nebraska before an election is made plus  
 13 the years of participation in the State Employees Retirement System  
 14 of the State of Nebraska after the election is made shall both be  
 15 credited toward compliance with the service requirements provided  
 16 under section 79-931; and

17 (b) The years of participation in the School Retirement  
 18 System of the State of Nebraska before the election is made plus  
 19 the years of participation in the State Employees Retirement System  
 20 of the State of Nebraska after the election is made shall both be  
 21 credited toward compliance with section 84-1321.

22 Sec. 14. Section 79-951, Reissue Revised Statutes of  
 23 Nebraska, is amended to read:

24 79-951 (1) A member shall be retired on account of  
 25 disability, either upon his or her own application or the

1 application of his or her employer or a person acting in his  
2 or her behalf, if a medical examination, made at the expense of  
3 the retirement system and conducted by a competent disinterested  
4 physician legally authorized to practice medicine under the laws of  
5 the state in which he or she practices, selected by the retirement  
6 board, shows and the physician certifies to the retirement board  
7 that the member is unable to engage in a substantially gainful  
8 activity by reason of any medically determinable physical or mental  
9 impairment which began while the member was a participant in the  
10 plan and which can be expected to result in death or be of  
11 a long and indefinite duration. The medical examination may be  
12 waived if, in the judgment of the retirement board, extraordinary  
13 circumstances exist which preclude substantial gainful activity by  
14 the member. Such circumstances shall include hospice placement or  
15 similar confinement for a terminal illness or injury.

16 (2) The member shall have five years from the date he or  
17 she terminates employment in a public school located in Nebraska  
18 in which to make application for disability retirement benefits if  
19 the disability is related to employment in a public school located  
20 in Nebraska. If the disability is not related to a public school  
21 located in Nebraska, the member shall have one year from the date  
22 he or she terminates employment in which to make application for  
23 disability retirement benefits. Any application for retirement on  
24 account of disability shall be made on a retirement application  
25 provided by the retirement system. Upon approval by the board,

1 benefits shall begin on the disability retirement date.

2           Sec. 15. Section 79-978, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           79-978 For purposes of the Class V School Employees  
5 Retirement Act, unless the context otherwise requires:

6           (1) Retirement system or system means the School  
7 Employees' Retirement System of (corporate name of the school  
8 district as described in section 79-405) as provided for by the  
9 act;

10           (2) Board means the board of education of the school  
11 district;

12           (3) Trustee means a trustee provided for in section  
13 79-980;

14           (4) Employee means the following enumerated persons  
15 receiving compensation from the school district: (a) Regular  
16 teachers and administrators employed on a written contract basis;  
17 and (b) regular employees, not included in subdivision (4)(a) of  
18 this section, hired upon a full-time basis, which basis shall  
19 contemplate a workweek of not less than thirty hours;

20           (5) Member means any employee included in the membership  
21 of the retirement system or any former employee who has made  
22 contributions to the system and has not received a refund;

23           (6) Annuitant means any member receiving an allowance;

24           (7) Beneficiary means any person entitled to receive or  
25 receiving a benefit by reason of the death of a member;

1           (8) Membership service means service on or after  
2 September 1, 1951, as an employee of the school district and a  
3 member of the system for which compensation is paid by the school  
4 district. Credit for more than one year of membership service  
5 shall not be allowed for service rendered in any fiscal year.  
6 Beginning September 1, 2005, a member shall be credited with a year  
7 of membership service for each fiscal year in which the member  
8 performs one thousand or more hours of compensated service as an  
9 employee of the school district. An hour of compensated service  
10 shall include any hour for which the member is compensated by  
11 the school district during periods where no service is performed  
12 due to vacation or approved leave. If a member performs less  
13 than one thousand hours of compensated service during a fiscal  
14 year, one-tenth of a year of membership service shall be credited  
15 for each one hundred hours of compensated service by the member  
16 in such fiscal year. In determining a member's total membership  
17 service, all periods of membership service, including fractional  
18 years of membership service in one-tenth-year increments, shall be  
19 aggregated;

20           (9) Prior service means service rendered prior to  
21 September 1, 1951, for which credit is allowed under section  
22 79-999, service rendered by retired employees receiving benefits  
23 under preexisting systems, and service for which credit is allowed  
24 under sections 79-990, 79-991, 79-994, 79-995, and 79-997;

25           (10) Creditable service means the sum of the membership

1 service and the prior service, measured in one-tenth-year  
2 increments;

3 (11) Compensation means salary or wages payable by the  
4 school district before reduction for contributions picked up under  
5 section 414(h) of the Internal Revenue Code, elective contributions  
6 made pursuant to section 125 or 403(b) of the code, or amounts  
7 not currently includible in income by reason of section 132(f)(4)  
8 of the code, subject to the applicable limitations of section  
9 401(a)(17) of the code;

10 (12) Military service means service in the uniformed  
11 services as defined in 38 U.S.C. ~~chapter 43,~~ 4301 et seq., as such  
12 provision existed on March 27, 1997;

13 (13) Accumulated contributions means the sum of amounts  
14 contributed by a member of the system together with regular  
15 interest credited thereon;

16 (14) Regular interest means interest (a) on the total  
17 contributions of the member prior to the close of the last  
18 preceding fiscal year, (b) compounded annually, and (c) at rates  
19 to be determined annually by the board, which shall have the  
20 sole, absolute, and final discretionary authority to make such  
21 determination, except that the rate for any given year in no event  
22 shall exceed the actual percentage of net earnings of the system  
23 during the last preceding fiscal year;

24 (15) Retirement date means the date of retirement of a  
25 member for service or disability as fixed by the board;

1           (16) Normal retirement date means the end of the month  
2 during which the member attains age sixty-five and has completed at  
3 least five years of membership service;

4           (17) Early retirement date means that month and year  
5 selected by a member having at least ten years of creditable  
6 service which includes a minimum of five years of membership  
7 service and who has attained age fifty-five;

8           (18) Retirement allowance means the total annual  
9 retirement benefit payable to a member for service or disability;

10          (19) Annuity means annual payments, for both prior  
11 service and membership service, for life as provided in the  
12 act;

13          (20) Actuarial tables means:

14           (a) For determining the actuarial equivalent of any  
15 annuities other than joint and survivorship annuities, a unisex  
16 mortality table using twenty-five percent of the male mortality  
17 and seventy-five percent of the female mortality from the 1994  
18 Group Annuity Mortality Table with a One Year Setback and using an  
19 interest rate of eight percent compounded annually; and

20           (b) For joint and survivorship annuities, a unisex  
21 retiree mortality table using sixty-five percent of the male  
22 mortality and thirty-five percent of the female mortality from the  
23 1994 Group Annuity Mortality Table with a One Year Setback and  
24 using an interest rate of eight percent compounded annually and a  
25 unisex joint annuitant mortality table using thirty-five percent of

1 the male mortality and sixty-five percent of the female mortality  
2 from the 1994 Group Annuity Mortality Table with a One Year Setback  
3 and using an interest rate of eight percent compounded annually;

4 (21) Actuarial equivalent means the equality in value of  
5 the retirement allowance for early retirement or the retirement  
6 allowance for an optional form of annuity, or both, with the normal  
7 form of the annuity to be paid, as determined by the application of  
8 the appropriate actuarial table, except that use of such actuarial  
9 tables shall not effect a reduction in benefits accrued prior to  
10 September 1, 1985, as determined by the actuarial tables in use  
11 prior to such date;

12 (22) Fiscal year means the period beginning September 1  
13 in any year and ending on August 31 of the next succeeding year;

14 (23) Primary beneficiary means the person or persons  
15 entitled to receive or receiving a benefit by reason of the death  
16 of a member; and

17 (24) Secondary beneficiary means the person or persons  
18 entitled to receive or receiving a benefit by reason of the death  
19 of all primary beneficiaries prior to the death of the member. If  
20 no primary beneficiary survives the member, secondary beneficiaries  
21 shall be treated in the same manner as primary beneficiaries.

22 Sec. 16. Section 79-990, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 79-990 (1) Any member who is eligible for reemployment  
25 on or after December 12, 1994, pursuant to 38 U.S.C. ~~chapter 43,~~

1 4301 et seq., as adopted under section 55-161, or who is eligible  
2 for reemployment under section 55-160 may pay to the retirement  
3 system after the date of his or her return from active military  
4 service, and within the period required by law, not to exceed  
5 five years, an amount equal to the sum of all deductions which  
6 would have been made from the salary which he or she would have  
7 received during the period of military service for which creditable  
8 service is desired. If such payment is made, the member shall be  
9 entitled to credit for membership service in determining his or  
10 her annuity for the period for which contributions have been made  
11 and the board shall be responsible for any funding necessary to  
12 provide for the benefit which is attributable to this increase in  
13 the member's creditable service. The member's payments shall be  
14 paid as the trustees may direct, through direct payments to the  
15 retirement system or on an installment basis pursuant to a binding  
16 irrevocable payroll deduction authorization between the member and  
17 the school district. Creditable service may be purchased only in  
18 one-tenth-year increments, starting with the most recent years'  
19 salary.

20 (2) Under such rules and regulations as the board may  
21 prescribe, any member who was away from his or her position while  
22 on a leave of absence from such position authorized by the board of  
23 education of the school district by which he or she was employed at  
24 the time of such leave of absence or pursuant to any contractual  
25 agreement entered into by such school district may receive credit

1 for any or all time he or she was on leave of absence. Such  
2 time shall be included in creditable service when determining  
3 eligibility for death, disability, termination, and retirement  
4 benefits. The member who receives the credit shall earn benefits  
5 during the leave based on salary at the level received immediately  
6 prior to the leave of absence. Such credit shall be received if  
7 such member pays into the retirement system (a) an amount equal  
8 to the sum of the deductions from his or her salary for the  
9 portion of the leave for which creditable service is desired,  
10 (b) any contribution which the school district would have been  
11 required to make for the portion of the leave for which creditable  
12 service is desired had he or she continued to receive salary at  
13 the level received immediately prior to the leave of absence,  
14 and (c) regular interest on these combined payments from the date  
15 such deductions would have been made to the date of repayment.  
16 Such amounts shall be paid as the trustees may direct, through  
17 direct payments to the retirement system or on an installment basis  
18 pursuant to a binding irrevocable payroll deduction authorization  
19 between the member and the school district over a period not to  
20 exceed five years from the date of the termination of his or her  
21 leave of absence. Interest on any delayed payment shall be at  
22 the rate of regular interest. Creditable service may be purchased  
23 only in one-tenth-year increments, starting with the most recent  
24 years' salary, and if payments are made on an installment basis,  
25 creditable service will be credited only as payment has been made

1 to the retirement system to purchase each additional one-tenth-year  
2 increment. Leave of absence shall be construed to include, but  
3 not be limited to, sabbaticals, maternity leave, exchange teaching  
4 programs, full-time leave as an elected official of a professional  
5 association or collective-bargaining unit, or leave of absence to  
6 pursue further education or study. A leave of absence granted  
7 pursuant to this section shall not exceed four years in length, and  
8 in order to receive credit for the leave of absence, the member  
9 must have returned to employment with the school district within  
10 one year after termination of the leave of absence.

11 (3) Until one year after May 2, 2001, any member  
12 currently employed by the school district who resigned from  
13 full-time employment with the school district for maternity  
14 purposes prior to September 1, 1979, and was reemployed as a  
15 full-time employee by the school district before the end of the  
16 school year following the school year of such member's resignation  
17 may have such absence treated as though the absence was a leave of  
18 absence described in subsection (2) of this section. The period of  
19 such absence for maternity purposes shall be included in creditable  
20 service when determining the member's eligibility for death,  
21 disability, termination, and retirement benefits if the member  
22 submits satisfactory proof to the board that the prior resignation  
23 was for maternity purposes and the member complies with the payment  
24 provisions of subsection (2) of this section before the one-year  
25 anniversary of May 2, 2001.

1           Sec. 17. Section 81-2016, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           81-2016 (1) Every member of the Nebraska State Patrol  
4 who was employed by the State of Nebraska as such, on September  
5 7, 1947, and every person employed as a member of such patrol  
6 thereafter, shall be a member of the system, except for those  
7 members of the Nebraska State Patrol who elected pursuant to  
8 section 60-1304 to remain members of the State Employees Retirement  
9 System of the State of Nebraska. On and after the operative date  
10 of this act, no employee shall be authorized to participate in  
11 the retirement system provided for in the Nebraska State Patrol  
12 Retirement Act unless the employee (a) is a United States citizen  
13 or (b) is a qualified alien under the federal Immigration and  
14 Nationality Act, 8 U.S.C. 1101 et seq., as such act existed on  
15 January 1, 2009, and is lawfully present in the United States.

16           (2) Within the first thirty days of employment, a member  
17 may apply to the board for eligibility and vesting credit for years  
18 of participation in another Nebraska governmental plan, as defined  
19 by section 414(d) of the Internal Revenue Code. During the years of  
20 participation in the other Nebraska governmental plan, the employee  
21 must have been a full-time employee, as defined in the Nebraska  
22 governmental plan in which the credit was earned.

23           (3) Any officer who qualifies for membership pursuant  
24 to subsection (1) of this section may not be disqualified from  
25 membership in the retirement system solely because such officer

1 also maintains separate employment which qualifies the officer  
2 for membership in another public retirement system, nor may  
3 membership in this retirement system disqualify such an officer  
4 from membership in another public retirement system solely by  
5 reason of separate employment which qualifies such officer for  
6 membership in this retirement system.

7 (4) Information necessary to determine membership shall  
8 be provided by the Nebraska State Patrol.

9 (5) The board may adopt and promulgate rules and  
10 regulations governing the assessment and granting of eligibility  
11 and vesting credit.

12 Sec. 18. Section 84-1307, Revised Statutes Supplement,  
13 2009, is amended to read:

14 84-1307 (1) The membership of the retirement system shall  
15 be composed of all persons who are or were employed by the State  
16 of Nebraska and who maintain an account balance with the retirement  
17 system.

18 (2) The following employees of the State of Nebraska  
19 are authorized to participate in the retirement system: (a) All  
20 permanent full-time employees shall begin participation in the  
21 retirement system upon employment; and (b) all permanent part-time  
22 employees who have attained the age of twenty years may exercise  
23 the option to begin participation in the retirement system. An  
24 employee who exercises the option to begin participation in the  
25 retirement system pursuant to this section shall remain in the

1 retirement system until his or her termination of employment or  
2 retirement, regardless of any change of status as a permanent or  
3 temporary employee.

4 (3) On and after the operative date of this act, no  
5 employee shall be authorized to participate in the retirement  
6 system provided for in the State Employees Retirement Act unless  
7 the employee (a) is a United States citizen or (b) is a qualified  
8 alien under the federal Immigration and Nationality Act, 8 U.S.C.  
9 1101 et seq., as such act existed on January 1, 2009, and is  
10 lawfully present in the United States.

11 ~~(3)~~ (4) For purposes of this section, (a) permanent  
12 full-time employees includes employees of the Legislature or  
13 Legislative Council who work one-half or more of the regularly  
14 scheduled hours during each pay period of the legislative session  
15 and (b) permanent part-time employees includes employees of the  
16 Legislature or Legislative Council who work less than one-half  
17 of the regularly scheduled hours during each pay period of the  
18 legislative session.

19 ~~(4)~~ (5) Within the first one hundred eighty days of  
20 employment, a full-time employee may apply to the board for  
21 vesting credit for years of participation in another Nebraska  
22 governmental plan, as defined by section 414(d) of the Internal  
23 Revenue Code. During the years of participation in the other  
24 Nebraska governmental plan, the employee must have been a full-time  
25 employee, as defined in the Nebraska governmental plan in which

1 the credit was earned. The board may adopt and promulgate rules  
2 and regulations governing the assessment and granting of vesting  
3 credit.

4 ~~(5)~~ (6) Any employee who qualifies for membership in  
5 the retirement system pursuant to this section may not be  
6 disqualified for membership in the retirement system solely because  
7 such employee also maintains separate employment which qualifies  
8 the employee for membership in another public retirement system,  
9 nor may membership in this retirement system disqualify such an  
10 employee from membership in another public employment system solely  
11 by reason of separate employment which qualifies such employee for  
12 membership in this retirement system.

13 ~~(6)~~ (7) State agencies shall ensure that employees  
14 authorized to participate in the retirement system pursuant to  
15 this section shall enroll and make required contributions to  
16 the retirement system immediately upon becoming an employee.  
17 Information necessary to determine membership in the retirement  
18 system shall be provided by the employer.

19 Sec. 19. Section 84-1309.02, Revised Statutes Supplement,  
20 2009, is amended to read:

21 84-1309.02 (1) It is the intent of the Legislature that,  
22 in order to improve the competitiveness of the retirement plan for  
23 state employees, a cash balance benefit shall be added to the State  
24 Employees Retirement Act on and after January 1, 2003. Each member  
25 who is employed and participating in the retirement system prior

1 to January 1, 2003, may either elect to continue participation  
2 in the defined contribution benefit as provided in the act prior  
3 to January 1, 2003, or elect to participate in the cash balance  
4 benefit as set forth in this section. The member shall make the  
5 election prior to January 1, 2003, or on or after November 1, 2007,  
6 but before January 1, 2008. If no election is made prior to January  
7 1, 2003, or on or after November 1, 2007, but before January 1,  
8 2008, the member shall be treated as though he or she elected  
9 to continue participating in the defined contribution benefit as  
10 provided in the act prior to January 1, 2003. Members who elect  
11 to participate in the cash balance benefit on or after November  
12 1, 2007, but before January 1, 2008, shall commence participation  
13 in the cash balance benefit on January 1, 2008. Any member who  
14 made the election prior to January 1, 2003, does not have to  
15 reelect the cash balance benefit on or after November 1, 2007,  
16 but before January 1, 2008. A member employed and participating  
17 in the retirement system prior to January 1, 2003, who terminates  
18 employment on or after January 1, 2003, and returns to employment  
19 prior to having a five-year break in service shall participate in  
20 the cash balance benefit as set forth in this section.

21 (2) For a member employed and participating in the  
22 retirement system beginning on and after January 1, 2003, or a  
23 member employed and participating in the retirement system on  
24 January 1, 2003, who, prior to January 1, 2003, or on or after  
25 November 1, 2007, but before January 1, 2008, elects to convert his

1 or her employee and employer accounts to the cash balance benefit:

2 (a) The employee cash balance account shall, at any time,  
3 be equal to the following:

4 (i) The initial employee account balance, if any,  
5 transferred from the defined contribution plan account described in  
6 section 84-1310; plus

7 (ii) Employee contribution credits deposited in  
8 accordance with section 84-1308; plus

9 (iii) Interest credits credited in accordance with  
10 subdivision (18) of section 84-1301; plus

11 (iv) Dividend amounts credited in accordance with  
12 subdivision (4)(c) of section 84-1319; and

13 (b) The employer cash balance account shall, at any time,  
14 be equal to the following:

15 (i) The initial employer account balance, if any,  
16 transferred from the defined contribution plan account described in  
17 section 84-1311; plus

18 (ii) Employer contribution credits deposited in  
19 accordance with section 84-1309; plus

20 (iii) Interest credits credited in accordance with  
21 subdivision (18) of section 84-1301; plus

22 (iv) Dividend amounts credited in accordance with  
23 subdivision (4)(c) of section 84-1319.

24 (3) In order to carry out the provisions of this section,  
25 the board may enter into administrative services agreements for

1 accounting or record-keeping services. No agreement shall be  
2 entered into unless the board determines that it will result  
3 in administrative economy and will be in the best interests of  
4 the state and its participating employees. The board may develop  
5 a schedule for the allocation of the administrative services  
6 agreements costs for accounting or record-keeping services and may  
7 assess the costs so that each member pays a reasonable fee as  
8 determined by the board. ~~The money forfeited pursuant to section~~  
9 ~~84-1321.01 shall not be used to pay the administrative costs~~  
10 ~~incurred pursuant to this subsection.~~

11           Sec. 20. Section 84-1310.01, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           84-1310.01 (1) Each member employed and participating in  
14 the retirement system prior to January 1, 2003, who has elected  
15 not to participate in the cash balance benefit, shall be allowed  
16 to allocate all contributions to his or her employee account to  
17 various investment options. Such investment options shall include,  
18 but not be limited to, the following:

19           (a) An investor select account which shall be invested  
20 under the direction of the state investment officer with an asset  
21 allocation and investment strategy substantially similar to the  
22 investment allocations made by the state investment officer for  
23 the defined benefit plans under the retirement systems described  
24 in subdivision (1)(a) of section 84-1503. Investments shall most  
25 likely include domestic and international equities, fixed income

1 investments, and real estate, as well as potentially additional  
2 asset classes;

3 (b) A stable return account which shall be invested by or  
4 under the direction of the state investment officer in one or more  
5 guaranteed investment contracts;

6 (c) An equities account which shall be invested by or  
7 under the direction of the state investment officer in equities;

8 (d) A balanced account which shall be invested by or  
9 under the direction of the state investment officer in equities and  
10 fixed income instruments;

11 (e) An index fund account which shall be invested by or  
12 under the direction of the state investment officer in a portfolio  
13 of common stocks designed to closely duplicate the total return of  
14 the Standard and Poor's 500 Index;

15 (f) A fixed income account which shall be invested by or  
16 under the direction of the state investment officer in fixed income  
17 instruments;

18 (g) A money market account which shall be invested by or  
19 under the direction of the state investment officer in short-term  
20 fixed income securities; and

21 (h) Beginning on July 1, 2006, an age-based account which  
22 shall be invested under the direction of the state investment  
23 officer with an asset allocation and investment strategy that  
24 changes based upon the age of the member. The board shall  
25 develop an account mechanism that changes the investments as

1 the employee nears retirement age. The asset allocation and asset  
2 classes utilized in the investments shall move from aggressive, to  
3 moderate, and then to conservative as retirement age approaches.

4 If a member fails to select an option or combination of  
5 options, all of his or her funds shall be placed in the option  
6 described in subdivision (b) of this subsection. Each member shall  
7 be given a detailed current description of each investment option  
8 prior to making or revising his or her allocation.

9 (2) Members of the retirement system may allocate their  
10 contributions to the investment options in percentage increments as  
11 set by the board in any proportion, including full allocation to  
12 any one option. A member under subdivision (1) of section 84-1323  
13 or his or her beneficiary may transfer any portion of his or her  
14 funds among the options, except for restrictions on transfers to or  
15 from the stable return account pursuant to rule or regulation. The  
16 board shall adopt and promulgate rules and regulations for changes  
17 of a member's allocation of contributions to his or her accounts  
18 after his or her most recent allocation and for transfers from one  
19 investment account to another.

20 (3) The board shall develop a schedule for the allocation  
21 of administrative costs of maintaining the various investment  
22 options and shall assess the costs so that each member pays a  
23 reasonable fee as determined by the board. ~~The money forfeited~~  
24 ~~pursuant to section 84-1321.01 shall not be used to pay the~~  
25 ~~administrative costs incurred pursuant to this section.~~

1           (4) In order to carry out the provisions of this section,  
2 the board may enter into administrative services agreements for  
3 accounting or record-keeping services. No agreement shall be  
4 entered into unless the board determines that it will result  
5 in administrative economy and will be in the best interests of the  
6 state and its participating employees.

7           (5) The state, the board, the state investment officer,  
8 the members of the Nebraska Investment Council, or the agency  
9 shall not be liable for any investment results resulting from  
10 the member's exercise of control over the assets in the employee  
11 account.

12           Sec. 21. Section 84-1311.03, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           84-1311.03 (1) Each member employed and participating in  
15 the retirement system prior to January 1, 2003, who has elected  
16 not to participate in the cash balance benefit, shall be allowed  
17 to allocate all contributions to his or her employer account to  
18 various investment options. Such investment options shall be the  
19 same as the investment options of the employee account as provided  
20 in subsection (1) of section 84-1310.01. If a member fails to  
21 select an option or combination of options, all of his or her funds  
22 in the employer account shall be placed in the balanced account  
23 option described in subdivision (1)(d) of section 84-1310.01.  
24 Each member shall be given a detailed current description of  
25 each investment option prior to making or revising his or her

1 allocation.

2 (2) Each member of the retirement system may allocate  
3 contributions to his or her employer account to the investment  
4 options in percentage increments as set by the board in any  
5 proportion, including full allocation to any one option. A member  
6 under subdivision (1) of section 84-1323 or his or her beneficiary  
7 may transfer any portion of his or her funds among the options. The  
8 board shall adopt and promulgate rules and regulations for changes  
9 of a member's allocation of contributions to his or her accounts  
10 after his or her most recent allocation and for transfers from one  
11 investment account to another.

12 (3) The board shall develop a schedule for the allocation  
13 of administrative costs of maintaining the various investment  
14 options and shall assess the costs so that each member pays a  
15 reasonable fee as determined by the board. ~~The money forfeited~~  
16 ~~pursuant to section 84-1321.01 shall not be used to pay the~~  
17 ~~administrative costs incurred pursuant to this section.~~

18 (4) In order to carry out the provisions of this section,  
19 the board may enter into administrative services agreements for  
20 accounting or record-keeping services. No agreement shall be  
21 entered into unless the board determines that it will result  
22 in administrative economy and will be in the best interests of the  
23 state and its participating employees.

24 (5) The state, the board, the state investment officer,  
25 the members of the Nebraska Investment Council, or the agency

1 shall not be liable for any investment results resulting from  
2 the member's exercise of control over the assets in the employer  
3 account.

4           Sec. 22. Section 84-1314, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           84-1314 (1) The State Employees Defined Contribution  
7 Retirement Expense Fund is created. The fund shall be credited  
8 with money forfeited pursuant to section 84-1321.01 and with money  
9 from the retirement system assets and income sufficient to pay  
10 the pro rata share of administrative expenses incurred as directed  
11 by the board for the proper administration of the State Employees  
12 Retirement Act and necessary in connection with the administration  
13 and operation of the retirement system. ~~except as provided in~~  
14 ~~sections 84-1309.02, 84-1310.01, 84-1311, and 84-1311.03.~~ Any money  
15 in the fund available for investment shall be invested by the state  
16 investment officer pursuant to the Nebraska Capital Expansion Act  
17 and the Nebraska State Funds Investment Act.

18           (2) The State Employees Cash Balance Retirement Expense  
19 Fund is created. The fund shall be credited with money forfeited  
20 pursuant to section 84-1321.01 and with money from the retirement  
21 system assets and income sufficient to pay the pro rata share of  
22 administrative expenses incurred as directed by the board for the  
23 proper administration of the State Employees Retirement Act and  
24 necessary in connection with the administration and operation  
25 of the retirement system. ~~except as provided in sections~~

1 ~~84-1309.02, 84-1310.01, 84-1311, and 84-1311.03.~~ Any money in  
2 the fund available for investment shall be invested by the state  
3 investment officer pursuant to the Nebraska Capital Expansion Act  
4 and the Nebraska State Funds Investment Act.

5           Sec. 23. Section 84-1321.01, Reissue Revised Statutes of  
6 Nebraska, is amended to read:

7           84-1321.01 (1) For a member who has terminated employment  
8 and is not vested, the balance of the member's employer account  
9 or employer cash balance account shall be forfeited. The forfeited  
10 account shall be credited to the State Employees Retirement Fund  
11 and shall first be used to meet the expense charges incurred  
12 by the retirement board in connection with administering the  
13 retirement system, which charges shall be credited to the State  
14 Employees Defined Contribution Retirement Expense Fund, if the  
15 member participated in the defined contribution option, or to the  
16 State Employees Cash Balance Retirement Expense Fund, if the member  
17 participated in the cash balance option, and the remainder, if any,  
18 shall then be used to reduce the state contribution which would  
19 otherwise be required to fund future service retirement benefits  
20 or to restore employer accounts or employer cash balance accounts.  
21 No forfeited amounts shall be applied to increase the benefits any  
22 member would otherwise receive under the State Employees Retirement  
23 Act.

24           (2) If a member ceases to be an employee due to the  
25 termination of his or her employment by the state and a grievance

1 or other appeal of the termination is filed, transactions involving  
2 forfeiture of his or her employer account or employer cash balance  
3 account shall be suspended pending the final outcome of the  
4 grievance or other appeal.

5 (3) The State Employer Retirement Expense Fund is  
6 created. The fund shall be administered by the Public Employees  
7 Retirement Board. The fund shall be established and maintained  
8 separate from any funds held in trust for the benefit of members  
9 under the retirement system.

10 (4) The fund shall be used to meet expenses of the  
11 State Employees Retirement System of the State of Nebraska  
12 whether such expenses are incurred in administering the member's  
13 employer account or in administering the member's employer cash  
14 balance account when the funds available in the State Employees  
15 Defined Contribution Retirement Expense Fund or State Employees  
16 Cash Balance Retirement Expense Fund make such use reasonably  
17 necessary. The director of the Nebraska Public Employees Retirement  
18 Systems shall certify to the Accounting Administrator of the  
19 Department of Administrative Services when accumulated employer  
20 account forfeiture funds are available to reduce the state  
21 contribution which would otherwise be required to fund future  
22 service retirement benefits or to restore employer accounts or  
23 employer cash balance accounts referred to in subsection (1)  
24 of this section. Following such certification, the Accounting  
25 Administrator shall transfer the amount reduced from the state

1 contribution from the Imprest Payroll Distributive Fund to the  
2 State Employer Retirement Expense Fund. Expenses incurred as a  
3 result of the state depositing amounts into the State Employer  
4 Retirement Expense Fund shall be deducted prior to any additional  
5 expenses being allocated. Any remaining amount shall be allocated  
6 in accordance with ~~section 23-2319.02.~~ subsection (3) of this  
7 section. Any money in the fund available for investment shall be  
8 invested by the state investment officer pursuant to the Nebraska  
9 Capital Expansion Act and the Nebraska State Funds Investment Act.

10 Sec. 24. Section 84-1323.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 84-1323.01 (1) Any member who is an employee,  
13 disregarding the length of service, may be retired as a result of  
14 disability either upon the member's own application or upon the  
15 application of the member's employer or any person acting in the  
16 member's behalf. Before any member may be so retired, a medical  
17 examination shall be made at the expense of the retirement system,  
18 which examination shall be conducted by a disinterested physician  
19 legally authorized to practice medicine under the laws of the state  
20 in which he or she practices, such physician to be selected by the  
21 retirement board, and the physician shall certify to the board that  
22 the member suffers from an inability to engage in a substantially  
23 gainful activity by reason of any medically determinable physical  
24 or mental impairment which began while the member was a participant  
25 in the plan and which can be expected to result in death or to be

1 of long-continued and indefinite duration and should be retired.  
2 The application for disability retirement shall be made within one  
3 year of termination of employment.

4 (2) The retirement board may require any disability  
5 beneficiary who has not attained the age of fifty-five to undergo a  
6 medical examination at the expense of the board once each year. If  
7 any disability beneficiary refuses to undergo such an examination,  
8 the disability retirement benefit may be discontinued by the board.

9 Sec. 25. Section 84-1504, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 84-1504 (1) The Public Employees Retirement Board, on  
12 behalf of the state, may contract with any individual to defer a  
13 portion of such individual's compensation or with the Legislative  
14 Council to defer any other amount that the Legislative Council  
15 agrees to credit to an individual's account pursuant to section 457  
16 of the Internal Revenue Code.

17 (2) The compensation to be deferred at the election of  
18 the individual and any other amount credited on behalf of such  
19 individual by the Legislative Council shall not exceed the total  
20 compensation to be received by the individual from the employer or  
21 exceed the limits established by the Internal Revenue Code for such  
22 a plan.

23 (3) The deferred compensation program shall serve in  
24 addition to but not be a part of any existing retirement or pension  
25 system provided for state or county employees or any other benefit

1 program.

2 (4) Any compensation deferred at the election of the  
3 individual under such a deferred compensation plan shall continue  
4 to be included as regular compensation for the purpose of computing  
5 the retirement, pension, or social security contributions made or  
6 benefits earned by any employee.

7 (5) Any sum so deferred shall not be included in the  
8 computation of any federal or state taxes withheld on behalf of any  
9 such individual.

10 (6) The state, the board, the state investment officer,  
11 the agency, or the county shall not be responsible for any  
12 investment results entered into by the individual in the deferred  
13 compensation agreement.

14 (7) Nothing in this section shall in any way limit,  
15 restrict, alter, amend, invalidate, or nullify any deferred  
16 compensation plan previously instituted by any instrumentality or  
17 agency of the State of Nebraska, and any such plan is hereby  
18 authorized and approved.

19 (8) On and after the operative date of this act, no  
20 employee of the state or any political subdivision of the state  
21 shall be authorized to participate in a deferred compensation plan  
22 unless the employee (a) is a United States citizen or (b) is a  
23 qualified alien under the federal Immigration and Nationality Act,  
24 8 U.S.C. 1101 et seq., as such act existed on January 1, 2009, and  
25 is lawfully present in the United States.

1           ~~(8)~~ (9) For purposes of this section, individual means  
2           (a) any state employee, whether employed on a permanent or  
3           temporary basis, full-time or part-time, (b) a person under  
4           contract providing services to the state who is not employed  
5           by the University of Nebraska or any of the state colleges or  
6           community colleges and who has entered into a contract with the  
7           state to have compensation deferred prior to August 28, 1999,  
8           and (c) any county employee designated as a permanent part-time  
9           or full-time employee or elected official whose employer does not  
10          offer a deferred compensation plan and who has entered into an  
11          agreement pursuant to section 48-1401.

12           Sec. 26. This act becomes operative on July 1, 2010.

13           Sec. 27. Original sections 23-2310.04, 23-2315.01,  
14          23-2319.02, 24-701.01, 79-902, 79-910.01, 79-915, 79-920,  
15          79-951, 79-978, 79-990, 81-2016, 84-1310.01, 84-1311.03, 84-1314,  
16          84-1321.01, 84-1323.01, and 84-1504, Reissue Revised Statutes of  
17          Nebraska, sections 23-2309.01 and 23-2310.05, Revised Statutes  
18          Cumulative Supplement, 2008, and sections 23-2306, 23-2308.01,  
19          84-1307, and 84-1309.02, Revised Statutes Supplement, 2009, are  
20          repealed.

21           Sec. 28. Since an emergency exists, this act takes effect  
22          when passed and approved according to law.